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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/658,141

09/09/2003

Scott A. Lerner

IL-11134

5419

7590

03/23/2005

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EXAMINER

EVANS, FANNIE L

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EV

|                              |                               |                                  |  |
|------------------------------|-------------------------------|----------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/658,141 | Applicant(s)<br>LERNER, SCOTT A. |  |
|                              | Examiner<br>F. L. Evans       | Art Unit<br>2877                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 1003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0903</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***The Information Disclosure Statement***

The prior art cited in the information disclosure filed on September 9, 2003 has been considered.

### ***Claim Objections***

Claim 11 is objected to because of the misspelling of --front-- in line 4. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Davies (US 5,717,487), cited by applicant.

Davies discloses an imaging spectrometer apparatus (line 55 in column 3) comprising: an entrance slit (5) for directing light, a lens (11) that receives said light and directs said light, a grating (9) that receives said light from said lens (11) and defracts/diffracts said light back onto said lens (11) which focuses said light, and a detector array (13) that receives said focused light. Applicant's attention is directed to Davies in its entirety with particular attention directed to Fig. 1 and lines 21-32 in column 3.

### ***Allowable Subject Matter***

Claims 2-18 are objected to as being dependent upon a rejected base claim, but would be

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allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claims 2-5, the prior art of record, taken alone or in combination, fails to disclose or render obvious an imaging spectrometer apparatus comprising a grating having rulings immersed as specified, in combination with the rest of the limitations of the claims.

As to claims 6 and 7, the prior art of record, taken alone or in combination, fails to disclose or render obvious an imaging spectrometer apparatus comprising a grating having rulings as specified, in combination with the rest of the limitations of the claims.

As to claims 8-10, the prior art of record, taken alone or in combination, fails to disclose or render obvious an imaging spectrometer apparatus comprising a grating having rulings cut as specified, in combination with the rest of the limitations of the claims.

As to claims 11-15, the prior art of record, taken alone or in combination, fails to disclose or render obvious an imaging spectrometer apparatus with the claimed arrangement of the entrance slit, lens and detector array, in combination with the rest of the limitations of the claims.

As to claims 16-18, the prior art of record, taken alone or in combination, fails to disclose or render obvious an imaging spectrometer comprising the claimed lens, in combination with the rest of the limitations of the claims.


#### ***Fax/Telephone Numbers***

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The fax number for Technology Center 2800 is (703) 872-9306 for regular and After Final communications.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (571) 272-2414. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr., can be reached on (571) 272-2800 ext 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**F. L. EVANS**  
**PRIMARY EXAMINER**  
**ART UNIT 2877**

file  
March 18, 2005